

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TARGUS INTERNATIONAL LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 20-464 (RGA)
)	
VICTORINOX SWISS ARMY, INC.,)	
)	
Defendant.)	

**PLAINTIFF’S RESPONSE TO DEFENDANT’S
SUBMISSION OF SUBSEQUENT AUTHORITY**

Plaintiff Targus International LLC (“Targus”) hereby submits its response to the Submission of Supplemental Authority of Defendant Victorinox Swiss Army, Inc. (“Victorinox”) pursuant to D. Del. L.R. 7.1.2(b). D.I. 59.

Defendant submits a California decision denying Targus’ motion to strike an inequitable conduct affirmative defense asserted in another litigation. This decision does not impact the pending motion to dismiss here challenging Victorinox’s failure to plead facts establishing the TSA RFI is prior art (D.I. 16), because the California decision did not address that point, instead it improperly assumed that the TSA RFI was prior art without any factual basis in the pleading. D.I. 59-1, slip op. at 6 (*Targus Int’l v. Everki USA*, 8:20-cv-00641 (C.D. Cal. Nov. 3, 2020)). A party must plead all aspects of inequitable conduct with particularity, including prior art status. *See Exergen Corp. v. Wal-Mart Stores, Inc.*, 575 F.3d 1312, 1326-27 (Fed. Cir. 2009). Thus, the California decision is not relevant to the pending motion before this Court.

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November 5, 2020

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on November 5, 2020, upon the following in the manner indicated:

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